HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 1099 (SS) OF 2001

(Old No. 26227 of 2000)

Smt. Manna Devi,
Aged about 55 years,
Wife of late Ram Swaroop,
Presently working as Safaiwali,
Under Executive Officer,
Nagar Palika, Nagar Palika Parishad,
Kashipur, District-Udham Singh Nagar. .....Petitioner.

Versus

1. State of U.P., through its secretary, Nagar Vikas, Civil Secretariat, Lucknow.
2. Director local Bodies, Uttar Pradesh, VIII floor, Indira Bhawan, Lucknow.
3. Commission, Kumayun Mandal, Nainital.

.....Respondents.

Dated: 21.08.2006

Hon'ble Rajesh Tandon, J.

Heard Sri S. Dhulia, Sr. Advocate, assisted by Ms. Pooja Banga, Advocate for the petitioner and Standing Counsel for the State.

2. By the present writ petition, the petitioner has prayed for following reliefs:

> *"i) issue a writ, order or direction in the nature of CERTIORARI quashing the impugned and illegal retirement order dated 2.5.2000 containing Annexure no. 1.*
>
> *ii) issue a writ, order or direction in the nature of MANDAMUS commanding opposite party no. 2 to direct the opposite party no. 4 to 5 to allow the petitioner to work on her original post and regular salary to her may also be paid.*

iii) issue any other writ, order direction which this Hon'ble Court deems fit, proper and just in favour of the petitioner may also be passed."

3. Briefly stated, according to the petitioner, she was appointed on compassionate ground under Dying in Harness Rules after the death of her husband. While entering in the service, the petitioner has made an endorsement regarding her date of birth i.e. 15th November, 1945 as will appear from her own application dated 20.11.1989. The contents of the application are quoted below:

^^egksn;]

Jheku th ls fouez fuosnu gS fd izkfFkZuh dks e`rd vkfJr ds LFkku ij lQkbZ okyh ds in ij vLFkk;h :i ls fu;qDr fd;k x;k Fkk vkSj ;g Hkh vkns'k fd;k x;k Fkk fd fu;qfDr i= izkfIr ds ,d lIrkg ds vUnj vk;q ,oa LokLF; izek.k i=ksa ds lkFk dk;ZHkkj xzg.k djasA bl vk'k; esa izkFkhZ dh vk;q 15/11/45 vafdr dh tk,A

4. Thereafter, she was confirmed on 17th March, 1998. Later on she raised a dispute that her date of birth is 8th December, 1939 and not 15th November, 1945. However, the petitioner has retired on 31st December, 1999 on reaching the age of superannuation, though she was allowed to work up to 2nd May, 2000.

5. In paragraph 2 of the writ petition, a mention has been made that an order was passed on 2nd May, 2000 appointing Sri Dinesh Sharma as Inquiry Officer.

6. In view of the above, the respondents are directed to expedite the inquiry proceedings, if the same is still pending.

7. However, if any emoluments are due in favour of the petitioner, liberty is given to her to represent the authority concerned and if such a representation is filed the same shall be disposed of in accordance with law expeditiously within a period of two months from the receipt of certified copy of the order.

8. Subject to aforesaid observations with regard to the expediting the inquiry proceedings as well as due payments to the petitioner, writ petition lacks merit and is dismissed. No order as to costs.

(Rajesh Tandon, J.)

21.08.2006
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